

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GARY THOMAS,

Movant,

-against-

UNITED STATES OF AMERICA,

Respondent.

19-CV-9756 (AJN)

13-CR-0360-2 (AJN)

ORDER

ALISON J. NATHAN, United States District Judge:

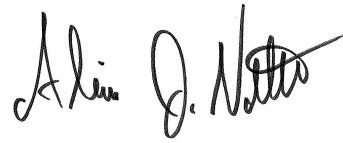
Gary Thomas has moved for counsel on his 2255 habeas petition. The basis for this motion is the difficulties Mr. Thomas claims to have encountered in viewing materials on four CR-ROMs sent to him by his former counsel. However, the Government has advised the Court that it has made accommodations for Mr. Thomas to view materials on the disks. And in its previous order, the Court noted that the Government should continue to provide accommodations to Mr. Thomas to view these materials. *See* Dkt. No. 360. Moreover, briefing on the 2255 is almost complete. All that remains is for Mr. Thomas to supplement his reply brief. And the Court notes that new arguments cannot usually be raised in a reply brief. *See McBride v. Bic Consumer Prods. Mfg. Co.*, 583 F.3d 92, 96 (2d Cir. 2009). Appointing counsel at this stage would be of limited utility.

Accordingly, the Court denies Mr. Thomas' motion for the appointment of counsel. However, by August 14, 2020, the Government should provide another update on Mr. Thomas' access to materials on the CD-ROMs. The update should address whether Mr. Thomas has been able to view paper copies of materials that he has not been able to access on the computer.

The Clerk of Court is respectfully directed to mail a copy of this order to Mr. Thomas.

SO ORDERED.

Dated: July 21, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", with a long horizontal stroke extending to the right.

ALISON J. NATHAN
United States District Judge